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To: **Stefanos Karmis**

From: **Michael Chan**

Company: **U.S. Patent & Trademark Office**

Company: **NCR Corporation, Law Department**

Fax Number: **571-273-8300**

Fax Number: **937-445-6794**

Phone Number: **571-272-6744**

Phone Number: **937-445-4956**

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U.S. Serial No. 09/665,846

Group Art Unit: 3691

Attorney Docket No. 9112.00

Examiner: Stefanos Karmis

Attached herewith are the following items for the above-identified patent application:

(1) a Third Appeal Brief in furtherance to the Notice of Appeal of **August 6, 2007 (11 sheet(s))**.

Respectfully submitted,

Michael Chan
Reg. No. 33,663

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent & Trademark Office at the above Fax Number, on

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Shirley Doll

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Dayton, Ohio

Docket No. 9112.00

OCT 03 2007

Application of: **Graham Russell et al.**

Serial No. **09/665,846**

Group Art Unit: **3691**

Filed: **September 20, 2000**

Examiner: **Stefanos Karmis**

For: **DISTRIBUTED IMAGE CAPTURE PROOF-OF-DEPOSIT SYSTEM AND METHOD OF OPERATING A DISTRIBUTED IMAGE CAPTURE PROOF-OF-DEPOSIT SYSTEM**

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

THIRD APPEAL BRIEF

Sir:

This third Appeal Brief is in furtherance of the Notice of Appeal filed in this case on **August 6, 2007.** There is no fee required to file this third Appeal Brief since a fee has already been paid when the first Appeal Brief was filed on January 6, 2005.

(1) REAL PARTY IN INTEREST

The present application is assigned to NCR Corporation of Maryland.

(2) RELATED APPEALS AND INTERFERENCES

None.

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(3) STATUS OF CLAIMS

The above-identified patent application was filed on September 20, 2000 with claims 1-24. In response to an Office Action mailed March 23, 2004, claims 3-6, 8, 15-18, and 20 were canceled, claims 1, 2, 7, 9-14, 19, and 21-24 were amended, and new claims 25 and 26 were added. In response to a final Office Action mailed on September 21, 2004, claims 1, 2, 7, 10-14, 19, and 22-24 were canceled and claims 9 and 21 were amended, but no amendments were entered. A first Notice of Appeal was filed on December 21, 2004. A first Appeal Brief was filed on January 6, 2005. In response to an Office Action mailed May 5, 2005, a second Notice of Appeal and an accompanying amendment which canceled claims 9-12 and 21-24 and added independent claims 27 and 28, respectively, in their place were filed on October 5, 2005. A second Appeal Brief was filed January 4, 2006. In response to a Notification of Non-Compliant Appeal Brief mailed on April 7, 2006, a revised second Appeal Brief was filed on April 12, 2006. In response to an Office Action mailed October 6, 2006, claims 1, 2, 7, 13, 14, 19, and 25-28 were amended. In response to a final Office Action mailed on May 7, 2007, a third Notice of Appeal was filed on August 6, 2007. Thus, claims 1, 2, 7, 13, 14, 19, and 25-28 remain pending and stand rejected.

Claims 25 and 27 are being appealed and are attached as an appendix to this third Appeal Brief.

(4) STATUS OF AMENDMENTS

No amendments were entered subsequent to the last final rejection which was mailed on May 7, 2007.

(5) SUMMARY OF CLAIMED SUBJECT MATTER

Independent Claim 25

A method is provided of operating a distributed image capture proof-of-deposit system 10 having a central processing site 20 and a number of branches 30A...30N

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connected via a network 40 with the central processing site (see Fig. 1; page 6, lines 2-11). The method comprises:

capturing at a branch images of physical document items without use of a group of physical tracer document items (see page 6, lines 12-27);

transferring the captured images of physical document items from the branch via the network to the central processing site (see page 7, lines 16-18);

receiving at the central processing site the images transferred from the branch (see page 7, lines 16-18);

assigning a unique entry number to all batches of document items received from the branch during a predetermined period of time (see page 7, lines 19-24);

creating a group of non-physical, logical tracer document items based upon the assigned unique entry number (see Figs. 4 and 5; page 9, line 24 to page 10, line 7); and

associating the group of non-physical, logical tracer document items with the batches of document items received from the branch during the predetermined period of time (see Fig. 6; page 10, lines 3-28); and

processing the batches of document items received from the branch during the predetermined period of time by using the group of non-physical, logical tracer document items which has been associated with the batches of document items received from the branch during the predetermined period of time (see page 11, lines 1-18).

Independent Claim 27

A method is provided of operating an encoding workstation 26 of an image-based item processing system to process physical document items which are contained in a number of document trays without using a group of physical tracer document items in the document trays (see Fig. 3; page 12, lines 5-10). The method comprises the steps of:

determining whether a group of physical tracer document items is included in a tray of physical document items (see Fig. 7; page 12, lines 15-17);

associating unique group of non-physical, logical tracer document items with the tray of physical document items when a determination is made that a group of physical tracer

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document items is not included in a tray of physical document items (see page 12, line 19 through page 13, line 4);

assigning a logical pocket number to each non-physical, logical tracer document item in the unique group of non-physical, logical tracer document items (see page 13, lines 4-10);

for each non-physical, logical tracer document item, encoding a physical blank document item with information associated with the particular non-physical, logical tracer document item (see page 13, lines 11-12); and

for each encoded item, routing the encoded physical document item to a physical pocket which has been assigned the logical pocket number (see page 13, lines 12-13).

(6)   GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

An issue presented for review is whether claim 27 is patentable under 35 U.S.C. Section 102(e) over U.S. Patent No. 6,863,214 to Garner IV et al. (referred to herein as "Garner").

Another issue presented for review is whether claim 25 is patentable under 35 U.S.C. Section 103(a) over Garner in view of U.S. Patent No. 6,381,342 to Foley.

(7)   ARGUMENT

Applicant would like to respectfully point out that the rejection of claims 27 and 25 is improper for at least the reasons explained hereinbelow.

Claim 27

First, Applicant would like to point out that the preamble of claim 27 of the present application recites:

"A method of operating an encoding workstation of an image-based item processing system to process physical document items which are contained in a number of document trays <u>without using a group of physical tracer document items in the document trays</u>"

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In the present application, there are no physical tracer document items used in the document trays.

In contrast, Garner uses physical tracer document items in the document trays. In this regard, Applicant notes that the Office refers to various portions of columns 2, 3, 4, and 5 of the specification of Garner to reject claim 27 of the present application. It is clear from the specification of Garner, including those portions of columns 2, 3, 4, and 5 cited in the Office Action, that the tracer group slips being processed are actual physical document items (see in particular column 2, lines 35-39 and lines 54-56, and column 3, lines 16-22 of the specification of Garner).

Second, Applicant would like to point out that the claim 27 of the present application recites, inter alia:

> "determining whether a group of physical tracer document items is included in a tray of physical document items;
> associating a unique group of non-physical, logical tracer document items with the tray of physical document items when a determination is made that a group of physical tracer document items is not included in a tray of physical document items"

In the present application, a unique group of non-physical, logical tracer document items is associated with the tray of physical document items when a determination is made that a group of physical tracer document items is not included in a tray of physical document items.

In contrast, Garner does not disclose a step of "determining whether a group of physical tracer document items is included in a tray of physical document items". Since Garner does not disclose this step, Garner cannot disclose the next step of "associating a unique group of non-physical, logical tracer document items with the tray of physical document items when a determination is made that a group of physical tracer document items is not included in a tray of physical document items".

If the Office continues to reject claim 27 of the present application by applying Garner, it is respectfully requested that the Office:

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(i) specifically point out <u>where</u> Garner discloses or suggests a step of "determining whether a group of physical tracer document items is included in a tray of physical document items" and then a step of "associating a unique group of non-physical, logical tracer document items with the tray of physical document items when a determination is made that a group of physical tracer document items is not included in a tray of physical document items"; and

(ii) explain <u>why</u> Garner would even have a need to create a group of logical tracers when physical tracer documents that constitute a tracer group are already present in Garner (see column 2, lines 54-56 in the specification of Garner).

Absent an adequate explanation of both (i) and (ii) above, it is respectfully submitted that the rejection of claim 27 of the present application is improper and, therefore, should be withdrawn.

Claim 25

First, Applicant would like to point out that claim 25 of the present application recites, inter alia:

"capturing at a branch images of physical document items <u>without</u> use of a group of physical tracer document items"

In the present application, there are no physical tracer document items used when images of physical document items are captured at a branch.

In contrast, Garner uses physical tracer document items in the document trays. In this regard, Applicant notes that the Office refers to various portions of columns 2, 3, 4, and 5 of the specification of Garner to reject claim 25 of the present application. It is clear from the specification of Garner, including those portions of columns 2, 3, 4, and 5 cited in the Office Action, that the tracer group slips being processed are actual <u>physical</u> document items (see in particular column 2, lines 35-39 and lines 54-56, and column 3, lines 16-22 of the specification of Garner).

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Second, the disclosure of Foley does not cure the deficiencies of Garner. Recall that Foley was cited in the Office Action for a batch header having a unique number.

If the Office continues to reject claim 25 of the present application by applying Garner and Foley, it is respectfully requested that the Office:

(i) specifically point out where Garner discloses or suggests a step of "capturing at a branch images of physical document items without use of a group of physical tracer document items"; and

(ii) explain why Garner would even have a need to create a group of logical tracers when physical tracer documents that constitute a tracer group are already present in Garner (see column 2, lines 54-56 in the specification of Garner).

Absent an adequate explanation of both (i) and (ii) above, it is respectfully submitted that the rejection of claim 25 of the present application is improper and, therefore, should be withdrawn.

Conclusion

In view of the forgoing reasons, it is clear that the rejection of claim 27 under 35 U.S.C. Section 102(e) and the rejection of claim 25 under 35 U.S.C. Section 103(a) are improper and, therefore, should be withdrawn. It is respectfully requested that the Board reverse the rejection of claims 27 and 25.

Respectfully submitted,

Michael Chan
Attorney for Applicant (Appellant)
Reg. No. 33,663

NCR Corporation, Law Department, WHQ-3E
1700 S. Patterson Blvd., Dayton, OH 45479-0001
Tel. No. 937-445-4956/Fax No. 937-445-6794

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(8)   CLAIMS APPENDIX

25.   A method of operating a distributed image capture proof-of-deposit system having a central processing site and a number of branches connected via a network with the central processing site, the method comprising:

capturing at a branch images of physical document items without use of a group of physical tracer document items;

transferring the captured images of physical document items from the branch via the network to the central processing site;

receiving at the central processing site the images transferred from the branch;

assigning a unique entry number to all batches of document items received from the branch during a predetermined period of time;

creating a group of non-physical, logical tracer document items based upon the assigned unique entry number; and

associating the group of non-physical, logical tracer document items with the batches of document items received from the branch during the predetermined period of time; and

processing the batches of document items received from the branch during the predetermined period of time by using the group of non-physical, logical tracer document items which has been associated with the batches of document items received from the branch during the predetermined period of time.

27.   A method of operating an encoding workstation of an image-based item processing system to process physical document items which are contained in a number of document trays without using a group of physical tracer document items in the document trays, the method comprising the steps of:

determining whether a group of physical tracer document items is included in a tray of physical document items;

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associating a unique group of non-physical, logical tracer document items with the tray of physical document items when a determination is made that a group of physical tracer document items is not included in a tray of physical document items;

assigning a logical pocket number to each non-physical, logical tracer document item in the unique group of non-physical, logical tracer document items;

for each non-physical, logical tracer document item, encoding a physical blank document item with information associated with the particular non-physical, logical tracer document item; and

for each encoded item, routing the encoded physical document item to a physical pocket which has been assigned the logical pocket number.

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(9) EVIDENCE APPENDIX

None.

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(10) RELATED PROCEEDINGS APPENDIX

None.

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